

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

No. 05-CV-10642-WGY

STEVEN DEARBORN, pro se,)
Plaintiff)
vs.)
COMMISSIONER OF)
CORRECTIONS, BARNSTABLE)
COUNTY COMMISSIONERS,)
BARNSTABLE COUNTY SHERIFF)
AND BARNSTABLE COUNTY)
HOUSE OF CORRECTIONS)
SUPERINTENDENT,)
Defendants)

**DEFENDANTS, BARNSTABLE COUNTY COMMISSIONERS,
BARNSTABLE COUNTY SHERIFF, AND BARNSTABLE
COUNTY HOUSE OF CORRECTIONS SUPERINTENDENT'S
CONCISE STATEMENT OF FACTS IN SUPPORT OF THEIR
OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT AND CROSS-MOTION FOR SUMMARY
JUDGMENT**

Pursuant to Local Rule 56.1, the Defendants, Barnstable County
Commissioners, Barnstable County Sheriff's Department, and Barnstable
County House of Corrections ("Barnstable County Defendants") submit

the following statement of facts contending there are no genuine issues to be tried.

1. Dearborn has been an inmate at Barnstable County Correctional Facility since October 12, 2004. (Exhibit 1).
2. Dearborn was transferred to the Barnstable County Correctional Facility from the Suffolk County Sheriff's Office due to numerous disciplinary issues including assaults on staff and assaults on inmates. (Exhibit 1).
3. On October 15, 2004, three days after his arrival at the Barnstable County Correctional Facility, Dearborn was involved in a major disciplinary incident culminating with his attempts to bite and punch staff members. (Exhibit 1).
4. A "Move Team" was required to move Dearborn from his cell to the Administrative Segregation Unit. Id.
5. It was necessary to place Dearborn in a restraint chair after the move, due to his behavior. Id.
6. A disciplinary board ordered Dearborn to serve a thirty (30) day sanction in the Disciplinary Isolation Unit. Id. This is the longest sentence allowed by law, absent extraordinary circumstances. Id.

7. From November 15, 2005 to December 15, 2005, Dearborn was housed in the disciplinary unit. (Exhibit 1).
8. Inmates may only leave their cells in the Disciplinary Isolation Unit, if at a minimum, they are wearing handcuffs. Id.
9. While an inmate in that unit, Dearborn was required to wear handcuffs while showering for security reasons. Id.
10. The shower did not lock and it was considered a security risk to have inmates in a disciplinary unit shower without handcuffs. Id.
11. Dearborn never suffered a physical injury as a result of wearing handcuffs in the shower, nor does he allege to have suffered one. (Exhibit 1 and Complaint).

The Defendants are unable to specifically respond to the Plaintiff's "Concise Statement of Facts" as the section the Plaintiff entitles "Facts in Support" almost exclusively contains conclusions of law with which the Defendants do not concur. However, the Defendants deny Paragraph 16 in Plaintiff's Motion for Summary Judgment, but this is not a material fact.

Respectfully submitted,
For the Barnstable County Defendants,
By their Attorney,



Robert S. Troy
90 Route 6A
Sandwich, MA 02563
(508) 888-5700
BBO#503160

DATED: June 3, 2005

LAW OFFICES
ROBERT S. TROY
TANT HILL OFFICE PARK
D OLD KINGS HIGHWAY
(ROUTE 6A)
SANDWICH, MA
02563-1866
TEL. (508) 888-5700